

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3755 of 1990

SPECIAL CIVIL APPLICATION NO.3756 of 1990

SPECIAL CIVIL APPLICATION NO.3757 of 1990

SPECIAL CIVIL APPLICATION NO.3758 of 1990

SPECIAL CIVIL APPLICATION NO.3759 of 1990

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SPECIAL CIVIL APPLICATION NO. 3760 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

LODHRA VIVIDH KARYAKARI

SAHKARI MANDLI LTD.

Versus

STATE OF GUJARAT

Appearance:

MRS DT SHAH for all Petitioners

MR KM PATEL for Respondents No. 2 & 3

MR M.R. ANAND, G.P. with Ms. Harsha Devani, AGP for
Respondent No.1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 16/08/96

ORAL COMMON JUDGEMENT

1. In this group of Special Civil Applications, the

petitioners have challenged the recovery notice given by the respondent No.2 against the recovery amount of difference in purchase price. It is contended that the dispute itself is not determined inasmuch as prior to the determination, no opportunity was given to the applicants. It is also contended that the price decided by respondent No.2 is illegal and without authority of law. A detailed reply has been filed by Shri Tulshibhai Nanjibhai Patel, Manager of the respondent No.2, Gujarat State Civil Supplies Corporation Limited. It is stated that prior to 1.10.1987, the price of cement at which it was sold by the stockists/licence holders was decided or fixed by the Revenue Officer at the subordinate levels keeping in mind the factors like transportation charges, local taxes, etc as provided in Clause (10) of the Cement Control Order, 1967. The Government of Gujarat in exercise of the powers under Clause (10) of the Cement Control Order, 1967, by Resolution dated 30th September, 1981, had passed a Resolution laying down that cement will be sold through out the State at a uniform price w.e.f. 1.10.1981. In view of the said resolution, the uniform price of cement was fixed to be administered through the respondent Corporation. The impugned recovery appears to be in respect of price difference payable by the petitioners to the Cement Price Equilisation Fund managed and operated by the respondent Corporation. The statement in this regard was given to the petitioners by the respondent Corporation. The petitioners had also given the explanation with respect to the nature of recovery. After considering the reply given by the petitioners, the amount was determined. In view of this, the grievance of the petitioners is not sustainable.

2. In view of the aforesaid, I do not find any merit in this group of Special Civil Applications and the same are rejected. Rule is discharged in each petition. The interim relief granted earlier stands vacated. However, the respondent will not take any coercive measures for recovery of the amount due for a period of two months.
